

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REMINGTON DONAVAIR LEBEAUX,

Plaintiff,

CASE NO. C10-1214-TSZ-JPD

BRIAN DENNEHY,

Defendant.

REPORT AND RECOMMENDATION

On July 26, 2010, plaintiff Remington LeBeaux presented to this Court for filing a civil rights complaint under 42 U.S.C. § 1983 together with an application to proceed with this action *in forma pauperis*. (See Dkt. No. 1.) At the time plaintiff filed this action he was confined in the King County Jail. (See *id.*) Plaintiff alleged in his complaint that he had been denied a kosher diet by the Administrator of the King County Jail, Bernie Dennehy, and that this denial constituted religious persecution. (See Dkt. No. 5 at 3.)

On August 4, 2010, plaintiff's application for leave to proceed *in forma pauperis* was granted and his complaint was filed. (See Dkt. Nos. 4 and 5.) On the same date, this Court issued an Order directing that plaintiff's complaint be served on defendant Dennehy. (Dkt. No. 6.) Defendant filed a timely answer to the complaint on October 4, 2010, and, on October 13,

1 2010, this Court issued an Order establishing a series of pretrial deadlines. (Dkt. Nos. 10 and
2 11.) On October 22, 2010, the copy of the pretrial scheduling order which was mailed to
3 plaintiff at the King County Jail was returned as undeliverable with a notation indicating that
4 plaintiff was no longer at that address. (Dkt. No. 12.)

5 On December 27, 2010, defendant filed a motion to dismiss this action for failure to
6 prosecute. (Dkt. No. 13.) Defendant relies on Local Rule CR 41(b)(2) to support his motion.
7 Rule CR 41(b)(2) provides as follows:

9 A party proceeding pro se shall keep the court and opposing parties advised as
10 to his current address. If mail directed to a pro se plaintiff by the clerk is
11 returned by the Post Office, and if such plaintiff fails to notify the court and
12 opposing parties within 60 days thereafter of his current address, the court may
13 dismiss the action without prejudice for failure to prosecute.

14 A review of the record makes clear that over sixty days have passed since mail directed
15 to plaintiff at his address of record was returned by the Post Office. To date, plaintiff has not
16 provided the Court with a new address. Accordingly, this Court recommends that defendant's
17 motion to dismiss be granted. This Court further recommends that plaintiff's complaint and
18 this action be dismissed, without prejudice, for failure to prosecute pursuant to Local Rule CR
19 41(b)(2). A proposed order accompanies this Report and Recommendation.

20 DATED this 8th day of February, 2011.

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23 JAMES P. DONOHUE
United States Magistrate Judge
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